

# United States Department of Agriculture,

## OFFICE OF THE SECRETARY.

---

### NOTICE OF JUDGMENT NO. 201, FOOD AND DRUGS ACT.

---

#### MISBRANDING OF A DRUG—"MAKE-MAN TABLETS."

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 11th day of August, 1909, in the Supreme Court of the District of Columbia, holding a District Court of the United States for said District, judgment was entered in the case of the United States against 2½ gross packages of Make-Man Tablets pursuant to a libel filed under section 10 of the aforesaid act and proceedings had thereon, which libel in substance alleged:

That 2½ gross packages of a drug labeled and branded "Make-Man Tablets" held and offered for sale in the District of Columbia were misbranded in that the label on each of said packages bore the following statements regarding the ingredients therein contained: "A brain, blood and nerve food; especially prepared for the treatment of dyspepsia, neuralgia, kidney and liver trouble, catarrh, consumption, locomotor ataxia, wasting diseases, nervous debility, female disorders and all kindred diseases resulting from worn out nervous system," which statements were exaggerated, false, and misleading in this, that the said drug is not a brain, blood, or nerve food, and is not adapted or suitable for the treatment of the several diseases or disorders therein mentioned; and which was further misbranded in that said label bore the following statement: "Distinctly a tonic to build up the system and contains no poison," which statement was false, exaggerated, and misleading in this, that said drug is not a tonic for the human system and contained certain poisons, to wit, arsenic and strychnine; and which was further misbranded in that the label on each of said packages bore the following statement regarding

the ingredients therein contained, to wit: "Make-Man Tablets make blood \* \* \* therefore any man that finds his health impaired, his vital force lacking as a result of overdoing, can replenish this lost power by the timely use of Make-Man Tablets \* \* \* sold under an absolute guaranty to restore lost vitality. A valuable discovery and a favorite prescription of a recognized practitioner. Makes the nerve cells strong because of supplying them with the right food \* \* \* a healthy natural food for the nerves rather than a temporary stimulant like most advertised so-called aphrodisiacs," which statements were exaggerated, false, and misleading in this, that said drug was not adapted to or suitable for the purpose of making blood or for the purpose of replenishing lost power in man, or for the purpose of restoring lost vitality, and further was not adapted to or suitable for stimulating the system in the manner accomplished by so-called aphrodisiacs; and which was further misbranded in that said labels bore the following statements: "A brain, blood and nerve food especially prepared for the treatment and cure of dyspepsia, neuralgia, kidney and liver trouble, catarrh, consumption, locomotor ataxia, wasting diseases, nervous debility, female disorders and all kindred diseases resulting from worn out nervous system," which statements were exaggerated, false, and misleading in this, that said drug was not a brain, blood, or nerve food, and was not especially adapted to or suitable for the treatment or cure of the diseases therein set forth.

The libel prayed process against all claimants to the said 2½ gross packages of Make-Man Tablets and seizure and condemnation of the same. Phillip G. Affleck appeared as claimant and filed a plea of *nolo contendere* to the allegations of the libel, whereupon the court rendered the following decree:

IN THE SUPREME COURT OF THE DISTRICT OF COLUMBIA, HOLDING A DISTRICT COURT.

UNITED STATES OF AMERICA,	}	District No. 831.
vs.		
TWO AND ONE-HALF GROSS PACK- ages of "Make-Man Tablets."		

JUDGMENT OF CONDEMNATION.

Upon motion of the United States for judgment of condemnation in the above entitled cause, and it appearing to the Court that upon the libel filed herein on June 10th, 1909, the Marshal of the United States for the District of Columbia seized forty-one dozen packages, more or less, of "Make-Man Tablets," valued at about four dollars for each dozen packages; and it further appearing to the Court that the claimant of the said forty-one dozen packages, more or less, so seized as aforesaid, Phillip G. Affleck, has entered his appearance and filed herein his plea of *nolo contendere*, that he will not contend with the United States in this cause, and no objection being signified to the Court; and it appearing further that the packages and labels state that the contents are a brain, blood and nerve food, especially prepared and adapted to and suitable for

the treatment of dyspepsia, neuralgia, kidney and liver trouble, catarrh, consumption, locomotor ataxia, wasting diseases, nervous debility, female disorders, and all kindred diseases resulting from worn out nervous system; and further, that the contents of the packages are distinctively a tonic for the human system and contain no poison; and further, that the said contents of the packages are suitable for the purpose of replenishing "lost power" in man, and for the purpose of restoring lost vitality, and is adapted to and suitable for stimulating the human system like an aphrodisiac; and further, upon certain of the bundles in which said packages are wrapped, that the contents of the packages are a brain, blood and nerve food; and it further appearing that the said labels and packages bear certain statements regarding the ingredients and substances contained in said food or drug, which are false and misleading and such as deceive the purchaser and the public, in this, that the said food or drug is not a brain, blood or nerve food, and is not especially prepared or adapted to or suitable for the treatment of the several diseases hereinabove named; and further, that the said food or drug is not a tonic for the human system, and contains certain poisons, namely, arsenic and strychnine; and further, in that the said food or drug is not suitable for the purpose of replenishing "lost power" in man, nor for the purpose of restoring lost vitality, and is not adapted to or suitable for stimulating the human system like an aphrodisiac; and it further appearing that the said bundles and packages of the food or drug have been offered for sale in the District of Columbia, in manner and form as claimed in the said libel,

It is, this 11th day of August, A. D. 1909, adjudged, ordered and decreed: That the said forty-one dozen packages, more or less, of the food or drug in the custody of the Marshal are misbranded, within the meaning of the said Act approved June 30, 1906, and the statements regarding the ingredients and substances contained therein are false and misleading as herein recited; and

It is further ordered that the said forty-one dozen packages, more or less, be, and they are hereby condemned, and they shall be disposed of by sale by the said Marshal under such terms and conditions as will not violate the provisions of the said Act approved June 30, A. D. 1906.

It is further ordered that the respondent, Phillip G. Affleck, pay all the costs of these proceedings.

It is provided, however, that upon said respondent Phillip G. Affleck's or the "Make-Man Tablet Company," a corporation of Chicago, Illinois, paying all the costs of these proceedings, and executing and delivering to the said United States a good and sufficient bond, with surety, to be approved by the Court, in the penal sum of \$250, conditioned that the said forty-one dozen packages, more or less, of "Make-Man Tablets" shall not be sold or in any manner whatever disposed of contrary to the provisions of the said Act approved June 30, A. D. 1906, the said Marshal shall redeliver and surrender the said forty-one dozen packages, more or less, of "Make-Man Tablets" to the respondent, Phillip G. Affleck, or to the said "Make-Man Tablet Company," in lieu of the disposition by sale as aforesaid.

By the Court.

ASHLEY M. GOULD,  
*Justice.*

The facts on which the allegations of the libel were based were as follows:

A specimen of the drug manufactured by the Make-Man Tablet Company, Chicago, Ill., labeled as above described, was obtained from the stock in possession of Phillip G. Affleck, 1429 Pennsylvania avenue, Washington, D. C., and analyzed in the Bureau of Chemistry of the United States Department of Agriculture, where it was found

to consist essentially of aloes, arsenic, strychnine, potassium sulphate, iron carbonate, iron oxid, and considerable inert silicious material.

It appearing that the drug was misbranded, the Secretary of Agriculture, on June 8, 1909, reported the facts to the United States Attorney for the District of Columbia, who filed the above libel, with the result hereinbefore stated.

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *February 15, 1910.*

201

## O